

**REMARKS**

**I. Status of Claims**

Claims 1-8 and 11 are pending in this application. Claims 1-7 and 11 have been amended. Support for these amendments can be found in the application as filed and does not constitute new matter.

Regarding the claim for foreign priority, Applicants concurrently submit herewith both a certified copy and an English translation of German Priority Application No. 199 44 767.5.

**II. Information Disclosure Statement**

In response to the Examiner's request, Applicants concurrently submit herewith two previously submitted PTO-1449 forms containing blank initial boxes.

**III. Obvious-type Double Patenting**

The Examiner has provisionally rejected the pending claims under the doctrine of obviousness-type double patenting as being unpatentable over the claims of copending Application No. 10/651,604 ("the '604 application"). The Examiner acknowledges that the current claims are different from the '604 application, but alleges that the present compounds are anticipated by certain compounds within claim 7 of the '604 application and rendered obvious by other claims. Applicants respectfully disagree, but in order to further prosecution, Applicants have amended the claims to overcome this rejection. As explained in section V.B. below, the claims as amended are not disclosed, suggested or

made obvious. In light of these amendments and remarks, Applicants respectfully request that this rejection be withdrawn.

#### **IV. Rejections under 35 U.S.C. § 102**

The Examiner has rejected the pending claims under § 102 as being anticipated by Froehlich et al. Applicants respectfully point out to the Examiner that this reference was first published on the internet on September 18, 1999. However, the German priority application 199 44 767.5 of the instant application, a certified translation of which is enclosed, was filed September 17, 1999. The priority document discloses at least as much of the claimed invention as Froehlich. For example, please compare formula (I) (German priority document, English translation, at pages 6-7), the two structures encompassed by the definition of "A", and the definitions of  $R^1$ ,  $R^2$ , and  $R^4$  where  $R^1$ ,  $R^2$ , and  $R^4$  can be, among other things, alkyl and aryl, to the Froehlich compounds. The other 2 structures described by Froehlich where a  $-\text{CH}_2\text{-NH-Ac}$  or  $-\text{CH}_2\text{-NH-C(O)-Pr}$  is a substituent at the 6-position of a 4-amino aromatic pteridine is outside the scope of the present invention.

Froehlich et al. is therefore not effective prior art and Applicants respectfully request that this rejection be withdrawn.

#### **V. Rejections under 35 U.S.C. § 103**

A. The Examiner has rejected the pending claims under § 103 as being obvious over Froehlich et al. As discussed above, Froehlich was published after the filing date of Applicants' German priority application, and consequently, is not effective

prior art. Moreover, the additional 2 compounds found within Froehlich do not teach or suggest the instant claimed invention. Applicants therefore respectfully request that this rejection be withdrawn.

B. The Examiner has rejected the pending claims under § 103 as being obvious over copending Application No. 10/651,604. Applicants disagree, but in order to further prosecution, Applicants have amended the claims to overcome this rejection.

Specifically, claim I is now directed to compounds of formulae (Ia), (Ib), or (Ic). Formula (Ia) corresponds to the previous formula (I) which has been restricted to the tetrahydropteridine compounds of the present invention. In this regard, it is noted that there is no mention or suggestion whatsoever in the '604 application of any tetrahydropteridines. Accordingly, the compounds of formula (Ia) are novel and are not made obvious by the '604 application.

Formula (Ib) corresponds to the previous formula (I) in claim 1 which has been restricted to a first narrower group of the unsaturated compounds of the present invention. The definitions of  $R^1$ ,  $R^3$ ,  $R^4$ , and  $R^5$  are identical to those previously defined in claim 1. The  $R^2$  group has been replaced by  $R^{2'}$ .  $R^{2'}$  is  $C_2$ - $C_{20}$ -alkenyl,  $C_2$ - $C_{20}$ -alkynyl, cycloalkenyl with three to eight ring carbon atoms, cycloalkylalkyl with five to six ring carbon atoms, aryl, heteroaryl, alkylaryl, alkylheteroaryl, arylalkyl, or heteroarylalkyl wherein  $R^{2'}$  is unsubstituted or substituted with at least one substituent chosen from  $R^6$ . As such, the compounds of formula (Ib) are not disclosed, suggested, or made obvious by the '604 application.

Formula (Ic) corresponds to the previous formula (I) in claim 1 which has been restricted to a second narrower group of the unsaturated compounds of the present invention. The definitions of  $R^1$ ,  $R^2$ ,  $R^3$ , and  $R^5$  are identical to those previously presented in claim 1. The group  $R^4$ , however, has been replaced by the group  $R^{4'}$ .  $R^{4'}$  is  $C_2$ - $C_{20}$ -alkenyl,  $C_2$ - $C_{20}$ -alkynyl, cycloalkyl with three to eight ring carbon atoms, cycloalkenyl with three to eight ring carbon atoms, cycloalkylalkyl with five to six ring carbon atoms, heteroaryl, alkylheteroaryl, heteroarylalkyl, -CO-O-alkyl, -CO-O-aryl, -CO-O-heteroaryl, -CO-O-aryl or -CO-O-heteroaryl wherein  $R^{4'}$  is unsubstituted or substituted with at least one substituent chosen from  $R^7$ . As such, the compounds of formula (Ic) are not disclosed, suggested, or made obvious by the '604 application.

In addition, since formula (Ib) and (Ic) are directed to a subset of the unsaturated compounds previously presented in claim 1, formulae (Ib) and (Ic) are fully supported by the specification of the present application.

In light of these remarks, Applicants request that this rejection be withdrawn.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: August 11, 2004

By: 

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